



# City of Santa Barbara California

**CITY OF SANTA BARBARA STAFF HEARING OFFICER**

**RESOLUTION NO. 076-16**

**270 COLEMAN AVE.**

**MODIFICATION AND COASTAL DEVELOPMENT PERMIT**

**NOVEMBER 9, 2016**

**APPLICATION OF DON SWANN, APPLICANT FOR AARON GILLES, 270 COLEMAN AVENUE, 045-081-009, E-3 SINGLE-FAMILY RESIDENTIAL ZONE, GENERAL PLAN AND LOCAL COASTAL PLAN DESIGNATION: RESIDENTIAL 5 UNITS PER ACRE (MST2016-00404).**

The project consists of a 453 square foot one-story addition to the existing 1,175 square-foot one-story single-family residence and construction of a new 383 square foot attached two-car garage. The project includes demolition of the existing 403 square foot attached garage, and minor interior remodel of 42 square feet. The new garage and bedroom addition are proposed to encroach into the northerly interior setback. The discretionary applications required for this project are:

1. An Interior Setback Modification to allow the new garage to be constructed within the required six foot interior setback (SBMC §28.92.110);
2. A Coastal Development Permit (CDP2016-00013) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301, Existing Facilities, and Section 15305, Minor Alterations In Land Use Limitations.

**WHEREAS**, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS**, no one appeared to speak in favor or in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, November 2, 2016.
2. Site Plans

**NOW, THEREFORE BE IT RESOLVED** that the City Staff Hearing Officer:

**I.** Approved the subject application making the following findings and determinations:

**A. INTERIOR SETBACK MODIFICATION (SBMC §28.92.110)**

The requested setback modification along the northerly property line is consistent with the purposes and intent of the Zoning Ordinance. The proposed improvements are appropriate because they are compatible with the character of the neighborhood which was developed with five foot interior setbacks, and compatible with sizes of houses in the neighborhood. The setback encroachment is necessary to provide a functional two-car garage and promotes uniformity of improvements by utilize the existing footing and slab for the addition in line with the new garage.

**B. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)**

The project is consistent with the policies of the California Coastal Act because it does not result in any adverse effects related to coastal resources, including views and public access, as described in Section V of the written Staff Report dated November 2, 2016.

The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code because the proposed residence would maintain the single-family character of the neighborhood, would not change existing views to, from or along the coast, and would maintain or improve the quality of marine waters through additional best management practices for on-site storm water management, as described in Section V of the written Staff Report dated November 2, 2016.

**II.** Said approval is subject to the following conditions:

In consideration of the project approval granted by the Staff Hearing Officer and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:

**A. Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of building permit application.
2. Record any required documents (see Recorded Conditions Agreement section).
3. Permits.
  - a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.

Details on implementation of these steps are provided throughout the conditions of approval.

- B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on November 9, 2016 is limited to approximately 2,011 square feet of building area and the improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
  2. **Uninterrupted Water Flow.** The Owner shall allow for the continuation of any historic flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
  3. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state and in accordance with the Storm Water BMP Guidance Manual and Operations and Maintenance Procedure Plan approved by the Creeks Division. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit and/or Coastal Development Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.
  4. **Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.
- C. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions



may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.

1. **Public Works Department**

- a. **Sewer Lateral Inspection.** A videotaped Sewer Lateral Inspection (SLIP) is required prior to the issuance of the Building Permit (BLD) due to the addition of more than 400 sf and/or the addition of two or more plumbing fixtures per SBMC 14.46.040. A list of over sixty qualified closed-circuit television survey and recording contractors and the Sewer Inspection Form are available on the City of Santa Barbara website [www.santabarbaraca.gov](http://www.santabarbaraca.gov). Please submit the sewer CD/Flash drive and Form to the Public Works Counter.
- b. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreement for the Owner's signature.

2. **Community Development Department**

- a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition B "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.
- b. **Window Placement.** All the proposed windows in the new master bedroom/bathroom and garage within the interior setback shall be clerestory windows.
- c. **Drainage and Water Quality.** The project is required to comply with Tier 2 of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87. The owner shall submit plans which include at least one Best Management Practice (BMP) to demonstrate consistency with the Storm Water BMP Guidance Manual.
- d. **Requirement for Archaeological Resources.** The following information shall be printed on the site plan:  
  
If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may

include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

- e. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner	Date
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Contractor	Date	License No.
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Architect	Date	License No.
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Engineer	Date	License No.
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- D. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

1. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor's name, contractor's telephone number(s), construction work hours, site rules, and



construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.

2. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Public Works Director with a Public Works permit.
3. **Construction Parking.** During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.
4. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

- E. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
- F. **General Conditions.**
1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
  2. **Approval Limitations.**
    - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
    - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Staff Hearing Officer.
    - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
  3. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material

conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

This motion was passed and adopted on the 9<sup>th</sup> day of November, 2016 by the Staff Hearing Officer of the City of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Staff Hearing Officer at its meeting of the above date.

  
\_\_\_\_\_  
Krystal Vaughn, Commission Secretary

11/10/16  
\_\_\_\_\_  
Date



**PLEASE BE ADVISED:**

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
5. **NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:**

The Staff Hearing Officer action approving the Coastal Development Permit shall expire two (2) years from the date of final action upon the application, per Santa Barbara Municipal Code §28.44.230, unless:

- A. Otherwise explicitly modified by conditions of approval for the coastal development permit.
- B. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
- C. The Community Development Director grants an extension of the coastal development permit approval. The Community Development Director may grant up to three (3) one-year extensions of the coastal development permit approval. Each extension may be granted upon the Director finding that: (i) the development continues to conform to the Local Coastal Program, (ii) the applicant has demonstrated due diligence in completing the development, and (iii) there are no changed circumstances that affect the consistency of the development with the General Plan or any other applicable ordinances, resolutions, or other laws

**NOTICE OF MODIFICATION APPROVAL TIME LIMITS:**

The Staff Hearing Officer action approving the Modification shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

- A. An extension is granted by the Community Development Director prior to the expiration of the approval; or
- B. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

